



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

Docket Number FRA-2013-0030

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 14, 2013, the BNSF Railway Company (BNSF) and the Union Pacific Railroad (UP) have jointly petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA-2013-0030.

Specifically, BNSF and UP seek a waiver of compliance from 49 CFR 232.305(b)(2) for railroad cars tested with automatic single car test devices (ASCTD). The current rule stipulates that if a car is on a shop or repair track for any reason and has not had a single car air brake test within the previous 12-month period, a single car air brake test must be performed. In their petition, UP and BNSF state that when this requirement became effective, the new ASCTDs were not in widespread use. BNSF and UP further state that sufficient time has passed, and enough industry experience has been

gained, to establish the advance in testing technology that the ASCTD has over the old manual device. Comparisons of the manual versus the automated testers made by BNSF and UP show an improvement of 11.5 percent in solving air brake-related issues. BNSF and UP submitted additional data to support their waiver petition, which has been placed in the subject docket.

BNSF and UP request that relief be granted to railroad cars tested within the previous 2 years, if shopped for any non-air brake-related reason on a shop or repair track, as set forth in 49 CFR 232.305(b). BNSF and UP propose a test waiver where all cars tested with the ASCTDs will be tracked through the Association of American Railroads' billing records for repeat air brake repairs within the 2-year period from the last single car air brake test performed with an ASCTD. Additionally, BNSF and UP will scan data from the wheel impact load and hot/cold wheel detector reports to see if the test cars develop any detector exceptions within the 2-year time period from the last single car air brake test performed with an ASCTD. BNSF and UP suggest that every 6 months, FRA, BNSF, and UP should hold a conference to review the data. BNSF and UP believe that data from this test waiver will demonstrate the effectiveness of the ASCTDs.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting

written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice

of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on April 24, 2013

Robert C. Lauby
Deputy Associate Administrator
for Regulatory and Legislative Operations

[FR Doc. 2013-10070 Filed 04/29/2013 at 8:45 am; Publication Date: 04/30/2013]